

BILL DRAFT REQUEST FROM EXECUTIVE AGENCIES

REQUEST LIMITED TO
ONLY

FOR LCB USE

ONE SUBJECT ONLY

BDR #_____

FROM: Division of Mortgage Lending
of Business & Industry

VIA: Department

TO: Legislative Counsel

I. Intent of Proposed Bill: (Brief summary of intended effect)

The BDR intent is to:

- Set-up an education fund to finance an education section within the Division to approve and administrate continuing education(CE) program, and provide public service announcements and other consumer information
- Set up a recovery fund to provide funds for consumers with judgments against bankers and brokers
- Require licensure of Banker mortgage agents, including continuing

- education, pre-licensing requirements and testing,
- Expand CE requirements for brokers including required hours, pre-licensing requirements and testing,
 - Expand the Division's ability to take administrative action against escrow agencies and agents
 - Define criteria when license shall be denied,
 - Increase bonding amounts for escrow agencies,
 - Establish requirements for loan servicing for escrow agencies,
 - Prohibit persons holding licenses issued pursuant to NRS 645B from holding licenses issued under NRS 645A,
 - Remove ability for unlicensed companies to arrange non-commercial occasional loans,
 - Require title companies and escrow companies to report escrows open by unlicensed companies,
 - Various other housekeeping items

II. Justification or Purpose: (Brief narrative of requirement. Use continuation sheet if necessary)

The general objective of the BDR is to provide for greater consistency in regulation of the industries under the jurisdiction of the Mortgage Lending Division and to enhance protection for consumers.

III. NRS Title, Chapter and Section affected: (If applicable)
NRS Chapters 645A, 645B, 645E, 645F, 692A, 80

IV. Effective Date:

Default (October 1, 2007)

☐ Upon Passage and Approval

☐ Other _____

V. Suggested language: (Optional) (Use continuation sheet if necessary)

See attached

VI. FISCAL NOTE:

Effect on the State

Yes ___X___ No _____ Contains Appropriation _____

Executive Budget _____ Effect Less Than \$2,000 _____

Effect on Local Government

Yes _____ No ___X___ Contains Appropriation _____

VII. Name of person to be consulted if more information is needed:

Name: Scott Bice, Commissioner Telephone No. (702) 486-0789

Sheila Walther, Supervisory Examiner, (775) 684-7055

VIII. Name, title and mailing address of person to whom a copy of the
drafted bill request should be mailed.

Scott Bice, Commissioner

3075 E. Flamingo #100

Las Vegas, Nevada 89121

Signature of head of agency

Date

From: Department of Administration

To: Legislative Counsel

Approved for preparation of bill draft.

Signature, Department of Administration

Section 1. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 & 3, inclusive, of this act.

Sec. 2. *1. If a person offers or provides any of the services of an escrow agency or escrow agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of an escrow agency or escrow agent and, at the time:*

(a) The person was required to have a license pursuant to this chapter or NRS 692A and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter, the Commissioner shall impose upon the person an administrative fine of not more than \$500 for each violation.

Sec. 3. *1. All money paid to an escrow agency or his escrow agents acting as a third party agent for purposes of collecting payments of full or partial payment of a loan secured by a lien on real property and/or the performance of related services, must:*

(a) Be deposited in an insured depository financial institution

(b) Be kept separate from money:

(1) Belonging to the escrow agency in an account appropriately named to indicate that it does not belong to the escrow agency.

(2) Received pursuant to subsection 5.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1:

(a) Must be released in accordance with the written servicing agreements between the parties; and

(b) Must be released, upon the deduction and payment of any fee or service charge due the escrow agency, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and

(c) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan, except as provided in the servicing agreement between the parties.

3. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 2. An escrow agency or escrow agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.

4. Upon reasonable notice, any escrow agency described in this section shall:

(a) Account to any investor or debtor who has paid to the escrow agency or his escrow agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the escrow agency or his escrow agents have received from each investor or debtor

and which the escrow agency is required to deposit in a trust account pursuant to this section.

5. All money paid to an escrow agency or his escrow agents acting as a third party agent for purposes of collecting for payment of taxes or insurance premiums on real property must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the escrow agency. Such money, when deposited, is to be designated as an “impound trust account” or under some other appropriate name indicating that the accounts are not the money of the escrow agency. The escrow agency has a fiduciary duty to each debtor with respect to the money in an impound trust account. The escrow agency shall, upon reasonable notice, account to any debtor whose real property secures a loan for any money which that person has paid to the escrow agency for the payment of taxes or insurance premiums on the real property. The escrow agency shall, upon reasonable notice, account to the Commissioner for all money in an impound trust account. An escrow agency shall comply with all provisions under the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500.17 (Escrow Accounts):

6. An escrow agency shall not make payments from an impound trust account in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent.

7. Money in an impound trust account is not subject to execution or

attachment on any claim against the escrow agency or his escrow agents.

8. It is unlawful for a escrow agency or his escrow agents knowingly to keep or cause to be kept any money in a depository financial institution under the heading of "impound trust account" or any other name designating such money as belonging to the investors or debtors of the escrow agency, unless the money has been paid to the escrow agency or his escrow agents by an investor or debtor and is being held in trust by the escrow agency pursuant to this section.

Sec. 4. NRS 645A.020 is hereby amended to read as follows:

1. A person who wishes to be licensed as an escrow agent or agency must file a written application in the Office of the Commissioner.

2. The application must:

(a) Be verified.

(b) Be accompanied by the appropriate fee prescribed in NRS 645A.040.

(c) State the location of the applicant's principal office and branch offices in the State and residence address.

(d) State the name under which the applicant will conduct business.

(e) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each.

(f) Indicate the general plan and character of the business.

(g) State the length of time the applicant has been engaged in the escrow business.

(h) Require a financial statement of the applicant.

(i) Require such other information as the Commissioner determines

necessary, *including but not limited a complete set of fingerprints for each 25% or greater owner of the escrow agency or any other natural person who may exercise significant control over the operation of the escrow agency and each escrow agent applicant which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

(j) If for an escrow agency, designate a natural person to receive service of process in this State for the agency.

(k) Include all information required to complete the application.

(l) The escrow agency applicant must designate an escrow agent to manage the office that has at least 2 years of verifiable experience in the escrow industry and has knowledge of generally accepted accounting practices and bookkeeping procedures evidenced by verifiable experience in working in these areas or appropriate educational training, or both.

3. If the Commissioner determines, after investigation, that the experience, character, financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public, *and the applicant is not otherwise ineligible pursuant to the provisions in NRS645A.090 (6)* he shall issue a license to the applicant as an escrow agent or agency.

~~4. The Commissioner may waive the investigation required by subsection 3 if the applicant submits with his application satisfactory proof that he, in good standing, currently holds a license, or held a license, within 1 year before the date he submits his application, which was issued pursuant to the provisions of NRS 692A.103.~~

~~5.~~ An escrow agent or agency shall immediately notify the Division of any material change in the information contained in the application.

~~4.~~ 5. A person may not be licensed as an escrow agent or agency or be a principal officer, **owner, employee**, director or trustee of an escrow agency if he is the holder of an active license issued pursuant to chapter 645 of NRS **or chapter 645B of the NRS. A person may not be licensed as mortgage agent or be designated as a Qualified Employee for a mortgage broker pursuant to NRS 645B and hold a license pursuant to chapters 645A or 692A of NRS.**

Sec. 5. NRS 645A.041 is hereby amended to read as follows:

1. Except as otherwise provided in NRS 645A.042, as a condition to doing business in this State, each escrow agency shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the escrow agency and all escrow agents employed by or associated with the escrow agency.

2. At the time of filing an application for a license as an escrow agent, the applicant shall file with the Commissioner proof that the applicant is named as a

principal on the corporate surety bond deposited with the Commissioner by the escrow agency with whom he is associated or employed.

3. The bond must be in substantially the following form:

Know All Men by These Presents, that, as principal, and, as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645A of NRS, in the sum of, lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as an escrow agency or escrow agent by the Commissioner of ~~Financial Institutions~~ **Mortgage Lending** of the Department of Business and Industry of the State of Nevada and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the(day) of(month) of(year), and remains in force until the surety is released from liability by the Commissioner of ~~Financial Institutions~~ **Mortgage Lending** or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of ~~Financial Institutions~~ **Mortgage Lending** of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at, Nevada, this(day) of(month) of(year).

..... (Seal)

Principal

..... (Seal)

Surety

By.....

Attorney-in-fact

.....

Licensed resident agent

4. Each escrow agency shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 645A.042 in the following amount based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160:

AVERAGE MONTHLY BALANCE	AMOUNT OF BOND OR SECURITY	
REQUIRED		
\$50,000 or less	\$20,000	
More than \$50,000 but not more than \$250,000	\$50,000	\$75,000
More than \$250,000 but not more than \$500,000	\$100,000	\$150,000
More than \$500,000 but not more than \$750,000	\$150,000	\$200,000
More than \$750,000 but not more than \$1,000,000	\$200,000	\$300,000
More than \$1,000,000	\$250,000	\$350,000

The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the escrow agency based upon the expected average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160. After the initial deposit, the Commissioner shall, on a semiannual basis, determine the appropriate amount of the surety bond or substitute form of

security that must be deposited by the escrow agency based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160.

Sec. 6. NRS 645A.090 is hereby amended to read as follows:

1. The Commissioner may refuse to license any escrow agent or agency or may suspend or revoke any license or impose a fine of not more than \$500 for each violation *committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, ~~[by entering an order to that effect, with his findings in respect thereto, upon a hearing], if it is determined that the applicant, licensee, or person:~~*

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by an escrow agency, the Commissioner may impose upon the escrow agency an administrative fine of not more than \$500 for each violation, may suspend, revoke or place conditions

upon his license, or may do both, if the escrow agency, whether or not acting as such:

(a) In the case of an escrow agency, is insolvent;

(b) *Does not conduct his business in accordance with law including, but not limited to, NRS Chapter 107; NRS Chapter 598; Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500; the Fair Debt Collection Practices Act; the Fair Credit Reporting Act; the Privacy of Consumer Financial Act* or has violated any provision of this chapter or any regulation adopted pursuant thereto or has aided and abetted another to do so;

(c) In the case of an escrow agency, is in such a financial condition that he cannot continue in business with safety to his customers;

(d) Has committed fraud in connection with any transaction governed by this chapter *or has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;*

(e) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact from, any principal or designated agent of a principal in the course of the escrow business;

(f) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from the Commissioner any information which the applicant or licensee possesses *and which, if submitted by him, would have rendered the escrow agency ineligible to be licensed pursuant to the provisions of this chapter;*

(g) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(j) Has been convicted of a felony relating to the practice of escrow agencies or any misdemeanor of which an essential element is fraud, ***misrepresentation or moral turpitude;***

(k) In the case of an escrow agency, has failed to maintain complete and accurate records of all transactions within the last 6 years;

(l) Has commingled the money of others with his own or converted the money of others to his own use, ***or does not maintain at all times sufficient money in their trust accounts to pay all money due or owing to all clients.;***

(m) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(n) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction; or

(o) In the case of an escrow agency, has:

(1) Failed to maintain adequate supervision of an escrow agent; or

(2) Instructed an escrow agent to commit an act which would be cause for the revocation of the escrow agent's license and the escrow agent committed the act. An escrow agent is not subject to disciplinary action for committing such an act under instruction by the escrow agency.

(3) Has employed a person as an escrow agent or authorized a person to be associated with the escrow agency as an escrow agent at a time when the escrow agency knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(a) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of escrow agents or any crime involving fraud, misrepresentation or moral turpitude; or

(b) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

3. For each violation committed by an escrow agent, the Commissioner may impose upon the escrow agent an administrative fine of not more than \$500 for each violation, may suspend, revoke or place conditions upon his license, or may do both, if the escrow agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has committed fraud in connection with any transaction governed by this chapter or has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice

(c) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact from, any principal or designated agent of a principal in the course of the escrow business;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the escrow agent possesses and which, if submitted by him, would have rendered the escrow agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of escrow agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in

violation of the provisions of the escrow instructions;

(i) Has repeatedly violated the policies and procedures of the escrow agency with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

4. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association that any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for such action had the applicant or licensee been a natural person.

5. The Commissioner may suspend any license ~~for not more than 30 days,~~ pending a hearing, if upon examination into the affairs of the licensee it is determined that any of the grounds enumerated in subsection 1 or 2 exist *which would impact the health, safety and welfare of the public.*

6. The commissioner may refuse to issue *an escrow agency or escrow agent's* ~~[a]~~ license to ~~[any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.]~~ *the applicant if the applicant or any 25% owner, general partner, officer or director of the applicant:*

(a) Has failed to demonstrate a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an escrow agency or agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(b) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of an escrow agency or escrow agent; or any crime involving fraud, misrepresentation or moral turpitude.

(c) Has made a false statement of material fact on his application.

(d) Has had a license that was issued pursuant to the provisions of this chapter or chapter 692A of NRS suspended or revoked within the 10 years immediately preceding the date of his application.

(e) Has had a professional license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(f) Has violated any provision of this chapter or a regulation adopted pursuant thereto or an order of the Commissioner.

7. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 7. NRS 645A.173 is hereby amended to read as follows:

1. If an escrow for the sale **or refinance** of real property is established, the holder of the escrow shall, on the date of establishment of the escrow, record in

writing the number and the date of expiration of the:

(a) License issued pursuant to chapter 645 of NRS; or

(b) Certificate of cooperation issued pursuant to NRS 645.605, of any real estate broker, broker-salesman or salesman who will be paid compensation from money held in the escrow for performing the services of a real estate broker, broker-salesman or salesman in the transaction that is the subject of the escrow. The holder of the escrow is not required to verify the validity of the number of the license or certificate.

2. If an escrow for the sale **or refinance** of real property is established and the real property is or will be secured by a mortgage or deed of trust, the holder of the escrow shall, on the date of establishment of the escrow, record in writing the number and the date of expiration of the license issued pursuant to chapter 645B or 645E of NRS of any mortgage broker or mortgage banker associated with the mortgage or deed of trust. The holder of the escrow ~~[is not required to]~~ **shall** verify ~~[independently]~~ the validity of the number of the license ***issued by the Division of Mortgage Lending of the Department of Business and Industry. If the mortgage broker or mortgage banker opening the escrow does not hold a valid license issued pursuant to chapter 645B or NRS 645E of NRS, or the person is not exempt from the provisions of chapter 645B or NRS 645E of NRS, the holder of the escrow must submit information on the person to the Division of Mortgage Lending on a form prescribed by the Division.***

3. *The Commissioner may adopt any regulations necessary to enforce this section.*

Sec. 8. NRS 645A.230 is hereby amended to read as follows: ~~[Any person who violates:~~

1. ~~NRS 645A.160, 645A.210 or 645A.220 is guilty of a gross misdemeanor].~~

A person, or any general partner, director, officer, agent or employee of a person, who violates any provision of, NRS 645A.160, 645A.210 or 645A.220, or NAC 645A.020, 645A.030 or 645A.050 inclusive, is guilty of:

(a) A misdemeanor if the amount involved is less than \$250;

(b) A gross misdemeanor if the amount involved is \$250 or more but less than \$1,000; or

(c) A category D felony if the amount involved is \$1,000 or more, and shall be punished as provided in NRS 193.130.

2. Any other provision of this chapter is guilty of a misdemeanor.

3. In addition to any other penalty, if a person is convicted of or enters a plea of nolo contendere to a violation described in subsection 1, the court shall order the person to pay:

(a) Court costs; and

(b) Reasonable costs of the investigation and prosecution of the violation.

Sec. 9. NRS 645B.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and

terms defined in NRS 645B.0105 to 645B.0135, inclusive, ***and sections 10 to 24, inclusive, of this Proposed Bill Draft Request*** have the meanings ascribed to them in those sections.

Sec. 10. NRS 645B.0125 is hereby amended to read as follows:

1. "Mortgage agent" means a natural person who:

(a) Is an employee or independent contractor of a mortgage broker who is required to be licensed pursuant to this chapter; and

(b) Is authorized by the mortgage broker to engage in, on behalf of the mortgage broker, any activity that would require the person, if he were not an employee or independent contractor of the mortgage broker, to be licensed as a mortgage broker pursuant to this chapter.

2. The term includes any natural person who processes any loan or conducts telemarketing on behalf the mortgage broker if the activity conducted is prescribed in NRS 645B.0127.

3. The term does not include a person who:

(a) Is licensed as a mortgage broker;

(b) Is a general partner, officer or director of a mortgage broker; or

(c) Performs only clerical or ministerial tasks for a mortgage broker.

4. A mortgage agent license obtained by a natural person pursuant to this chapter qualifies the holder of the license to work as a mortgage agent for a mortgage banker pursuant to section 29 through 30 of this proposed bill draft request. A mortgage agent may only associate with or be

employed by a mortgage broker or mortgage banker at one licensed office location and may not be associated with or be employed simultaneously by more than one entity licensed or exempt from the provisions of NRS 645B or NRS 645E.

Sec. 11. NRS 645B.0127 is hereby amended to read as follows:

1. "Mortgage broker" means a person who, directly or indirectly:

(a) Holds himself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien on real property;

(b) Holds himself out for hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on real property;

(c) Holds himself out as being able to make loans secured by liens on real property;

(d) Holds himself out as being able to buy or sell , *or act as an agent for any person in an attempt to buy or sell* notes secured by liens on real or

(e) Offers for sale in this State any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on real property.

2. The term does not include:

(a) A person who is licensed as a mortgage banker, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter.

(b) An institutional investor including, but not limited to, banks, insurance companies and governmental agencies who purchases closed

loans, loan portfolios or servicing rights for loans originated by a mortgage broker licensed pursuant to chapter 645B or a person exempt from the provisions of NRS chapter 645B.

Sec. 12. NRS 645B.015 is hereby amended to read as follows:

Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, [~~consumer finance companies~~], industrial loan companies, credit unions ~~[,]~~ **or** thrift companies, ~~[, or insurance companies,]~~ unless the business conducted in this State is not subject to **the direct** supervision by ~~the~~ a regulatory authority ~~[of the other jurisdiction]~~ **of this state, another state or the federal government or is not expressly authorized by the laws, license or other credential issued by the other jurisdiction, in which case licensing pursuant to this chapter is required. Persons qualifying for exemptions pursuant to this section must provide support that the business conducted pursuant to this chapter is subject to regulatory supervision by the other authority.**

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 13. NRS 645B.020 is hereby amended to read as follows:

1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) Be verified.

(b) State the name, ~~[residence]~~*residential* address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

(c) State the name under which the applicant will conduct business as a mortgage broker.

(d) List the name, ~~[residence]~~*residential* address and business address of each person who will:

(1) ~~[If the applicant is not a natural person, have]~~ *Have* an interest in the mortgage broker as a principal, partner, officer, director or trustee, *or any other person who may exercise significant control over the operation of the mortgage broker*, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(e) If the applicant is a natural person, include the social security number of the applicant.

(f) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(g) State the length of time the applicant has been engaged in the business of a broker.

(h) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(i) *Include any information regarding any civil or criminal proceedings brought against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.*

(j) *Include any information relating to any written complaints filed with any state or federal regulator against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant, with any licensing board in another state and any action taken by the licensing board against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.*

(k) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office. *The location of each principal office and branch office at which the mortgage broker will conduct business within this State must not be on land that is zoned primarily for residential use.*

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application complies with the requirements of this chapter;

(b) The applicant submits the statement required pursuant to NRS 645B.023, if the applicant is required to do so; and

(c) The applicant, if a natural person or their designated qualified employee complies with the testing and/or education requirements pursuant to section – of this proposed bill draft request; and

~~(c)~~ **(d)** The applicant and each ~~[general]~~ **principal**, partner, officer, ~~[or]~~ director, **primary stockholder, qualified employee or trustee** of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of ~~[these]~~ **those** qualifications to the Commissioner.

(2) Has not been convicted of, or entered a plea of nolo contendere to, ~~[a felony relating to the practice of mortgage brokers]~~ **forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance** or any crime involving fraud, misrepresentation or moral turpitude ~~[:]~~ **in a court in this State, the United States or any foreign jurisdiction.**

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.

(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. Any person who has been convicted of, or entered a plea of nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance or any crime involving fraud, misrepresentation or moral turpitude in a court in this State, the United States or any foreign jurisdiction is not eligible to receive a license as a mortgage broker or be approved to act as a qualified employee of a mortgage broker. The person remains ineligible for the issuance of the license and may not be approved as a qualified employee until 3 years after:

(a) The person pays any fine or restitution ordered by the court; or
(b) The expiration of the period of the parole, probation or sentence of the person, whichever is later.

Sec. 14. NRS 645B.050 is hereby amended to read as follows:

1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) If the licensee is a natural person, the statement required pursuant to NRS 645B.023; and

(d) The information required pursuant to NRS 645B.051.

2. If the licensee fails to submit any item required pursuant to subsection 1 *or has failed to provide statements required pursuant to NRS 645B.085 or payment any fees or assessments due the Division by the licensee* to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) If the licensee is a natural person, the statement required pursuant to NRS 645B.023;

(d) The information required pursuant to NRS 645B.051; and

(e) All information required to complete the reinstatement, *including statements required pursuant to NRS 645B.085 and payment of any fees or assessments due the Division by the licensee.*

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the

Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of **not more than** \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application or a license, **not more than** \$1,500 for the principal office and **not more than** \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, **not more than** \$1,000 for the principal office and **not more than** \$60 for each branch office.

(c) To renew a license, **not more than** \$500 for the principal office and **not more than** \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this

chapter:

(a) To file an application for a certificate of exemption, *not more than* \$200.

(b) To renew a certificate of exemption, *not more than* \$100.

2. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of *not more than* \$10.

3. Except as otherwise provided in this chapter or *in section 48 of this proposed bill draft request*, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

4. The Commissioner may ~~[-by regulation, increase]~~ *adjust* any fee to the limits set forth in this section if the Commissioner determines that such an ~~increase]~~ *adjustment* is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any ~~increase]~~ *adjustment* in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 15. NRS 645B.051 is hereby amended to read as follows:

1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the ~~[12]~~ *24* months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the ~~[12]~~ 24 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12 month period, but not needed to satisfy a requirement set forth in this section for the 12 month period in which the course was taken, may be used to satisfy a requirement set forth in this section for the next consecutive 12 month period.

3. As used in this section, “certified course of continuing education” means a course of continuing education *certified by the Commissioner pursuant to section 42 through 47 of this proposed bill draft request* which relates to the mortgage industry or mortgage transactions, *and which is taught by a provider and an instructor approved by the Commissioner. The term also includes any courses pertaining to the mortgage industry which are taught by Division employees.*

~~—(a) The National Association of Mortgage Brokers or any successor in interest to that organization; or~~

~~—(b) Any organization designated for this purpose by the Commissioner by regulation.~~

Sec. 16. NRS 645B.060 is hereby amended to read as follows:

1. Subject to the administrative control of the Director of the Department of

Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt any regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(c) ~~Conduct~~ ***Except as otherwise provided in subsection 4, conduct*** an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.

(d) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary and proper for the efficient administration of the laws of this State regarding mortgage brokers and mortgage

agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(e) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(f) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner is not required to conduct the annual examination described in paragraph (c) of subsection 2, if the mortgage broker:

(a) Received a satisfactory rating, as determined by the Commissioner, in the last annual examination;

(b) Has not had an adverse change in financial condition as evidenced by the financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division against the mortgage broker that resulted in an administrative action by the Division;

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or NRS 645B.175 or arrange loans funded by private investors.

(e) If a mortgage broker meets the criteria of subsections “a” through “d” of this section, the Commissioner shall conduct a bi-annual examination of the licensee.

Sec. 17. NRS 645B.085 is hereby amended to read as follows:

1. Except as otherwise provided in this section, not later than ~~90~~ 120 days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection 4 of NRS 645B.175, those accounts must be audited. The public accountant who

prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 18. NRS 645B.189 is hereby amended to read as follows:

1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker shall, *for 1 year after the issuance of his license as a mortgage broker*, submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must

comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. A mortgage broker shall not include in any advertisement:

(a) The name, trade name, logo, or tagline of another lender or broker in a solicitation for mortgage services directed to a consumer without the consent of the other lender or broker.

(b) The name of another lender or broker or a name similar to that of another lender or broker in a solicitation for mortgage services directed to consumers if that use could cause a reasonable person to be confused, mistaken, or deceived initially or otherwise as to either of the following:

(1) The broker or lender's sponsorship, affiliation, connection, or association with the broker using the name.

(2) The broker or lender's approval or endorsement of the person using the name or *the broker's services or products.*

(c) A consumer's loan number or loan amount, whether or not publicly available, in a solicitation for services or products without the consent of the consumer.

~~[6]~~ 7. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 19. NRS 645B.400 is hereby amended to read as follows:

A person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the activities of a mortgage agent unless the person has a license as a mortgage agent issued pursuant to NRS 645B.410. *The license issued pursuant to NRS645B.410 is effective upon the date that the mortgage agent files the required forms and fees with the Division, however the license is conditional until such time as the Division has completed the investigation of the applicant and has found that the applicant meets the standards prescribed in NRS 645B.410.*

Sec. 20. NRS 645B.410 is hereby amended to read as follows:

1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the

Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than \$185.

(e) Comply with the testing and/or education requirements pursuant

to section 43 of this proposed bill draft request.

2. An application for a license as a mortgage agent must:

- (a) Be verified;
- (b) State the name and ~~[residence]~~ **residential** address of the applicant;
- (c) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;
- (d) Include ~~[a complete set]~~ **two complete sets** of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;
- (e) Include a verified statement from the mortgage broker with whom the applicant will be associated that expresses the intent of that mortgage broker to associate the applicant with the mortgage broker and to be responsible for the activities of the applicant as a mortgage agent; and
- (f) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

- (a) The application complies with the applicable requirements of this chapter; and
- (b) The applicant:

(1) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(2) Has not had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of ~~these~~ **those** qualifications to the Commissioner.

4. ***Except as provided in section 48 of this proposed bill draft request, all*** money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. The Commissioner shall deny a license as a mortgage agent to any person who has been convicted of, or entered a plea of nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance or any crime involving fraud, misrepresentation or moral turpitude in a court in this State, the United States or any foreign jurisdiction. The person remains ineligible for the issuance of the license until 3 years after:

- (a) The person pays any fine or restitution ordered by the court; or*
- (b) The expiration of the period of the parole, probation or sentence of the person, whichever is later.*

Sec. 21. NRS 645B.430 is hereby amended to read as follows:

1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

- (a) An application for renewal;
- (b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the ~~[12]~~ 24 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than \$170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section; and
- (c) A reinstatement fee *of not more than* \$75.

3. To be issued a duplicate copy of a license as a mortgage agent, a person

must make a satisfactory showing of its loss and pay a fee of *not more than* \$10.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of *not more than* \$10.

5. *Except as provided in section 51 of this proposed bill draft request,* *all* money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.

~~[7. As used in this section, “certified course of continuing education” has the meaning ascribed to it in NRS 645B.051.]~~

Sec. 22. NRS 645B.450 is hereby amended to read as follows:

1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one mortgage broker at the same time.

2. A mortgage broker shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410.

3. If a mortgage agent terminates his association or employment with a

mortgage broker for any reason, the mortgage broker shall, not later than ~~the third business day following~~ **30 calendar days after** the date of termination:

(a) Deliver to the mortgage agent or send by certified mail to the last known ~~residence~~ **residential** address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

(b) Deliver or send by certified mail to the Division:

(1) The license or license number of the mortgage agent;

(2) A written statement of the circumstances surrounding the termination;

and

(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).

4. If the Division receives notification that a mortgage agent has associated with a broker different than the broker of record with the Division, the statement pursuant to subsection 3 of this section is not required. The mortgage agent's association with the prior broker will be automatically terminated upon receipt of the change of broker notification.

Sec. 23. NRS 645B.460 is hereby amended to read as follows:

1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents. Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents; and

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;
(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; ~~and~~

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter ~~§~~ ; *and*

(5) The reporting to the Division of any fraudulent activity engaged in by its mortgage agents.

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 24. NRS 645B.670 is hereby amended to read as follows:

Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner

may impose upon the applicant an administrative fine of not more than \$10,000, if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$10,000, *may require that the mortgage broker, or a person acting as such, to disgorge any profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner; furthermore* may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he

is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this

chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to

be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

(u) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

(v) Has compensate, directly or indirectly, coerce, or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of the real estate being offered as security according to an application for a mortgage loan.

3. For each violation committed by a mortgage agent *or a qualified employee*, the Commissioner may impose upon the mortgage agent *or qualified employee* an administrative fine of not more than \$10,000, , *may require that the mortgage agent, or person acting as such, to disgorge any*

profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the

Commissioner; furthermore may suspend, revoke or place conditions upon his license *or ability to act as a qualified employee*, or may do both, if the mortgage agent *or qualified employee*, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent *or qualified employee* knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent *or qualified employee* possesses and which, if submitted by him, would have rendered the mortgage agent *or qualified employee* ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

(k) Has compensate, directly or indirectly, coerce, or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of the real estate being offered as security according to an application for a mortgage loan.

Sec. 25. Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to 33, inclusive, of this act.

Sec. 26. ***1. Each advertisement that a mortgage banker uses in carrying on his business must comply with the requirements of:***

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive

advertising and the advertising of interest rates.

2. A mortgage banker shall not include in any advertisement:

(a) The name, trade name, logo, or tagline of another lender in a solicitation for mortgage services directed to a consumer without the consent of the other lender.

(b) The name of another lender or a name similar to that of another lender in a solicitation for mortgage services directed to consumers if that use could cause a reasonable person to be confused, mistaken, or deceived initially or otherwise as to either of the following:

(1) The lender's sponsorship, affiliation, connection, or association with the banker using the name.

(2) The lender's approval or endorsement of the banker using the name or the banker's services or products.

(c) A consumer's loan number or loan amount, whether or not publicly available, in a solicitation for services or products without the consent of the consumer.

Sec. 27. 1. "Mortgage agent" means a natural person who:

(a) Is an employee or independent contractor of a mortgage banker who is required to be licensed pursuant to this chapter; and

(b) Is authorized by the mortgage banker to engage in, on behalf of the mortgage banker, any activity that would require the person, if he were not an employee or independent contractor of the mortgage banker, to be

licensed as a mortgage banker pursuant to this chapter.

2. The term includes any person who processes any loan for the mortgage banker on a contract basis.

3. The term does not include a person who:

(a) Is licensed as a mortgage banker;

(b) Is a general partner, officer or director of a mortgage banker; or

(c) Performs only clerical or ministerial tasks for a mortgage banker.

2. The term includes any natural person who processes any loan or conducts telemarketing on behalf the mortgage banker if the activity conducted is prescribed in NRS 645E.100.

4. A mortgage agent license obtained by a natural person pursuant to this chapter qualifies the holder of the license to work as a mortgage agent for a mortgage broker pursuant to NRS 645B.410. A mortgage agent may only associate with or be employed by a mortgage banker or mortgage broker at one licensed office location and may not be associated with or be employed simultaneously by more than one entity licensed or exempt from the provisions of NRS 645E or NRS 645B.

Sec. 28. 1. Except as provide in subsection 2 of this section, a person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the activities of a mortgage agent unless the person has a license as a mortgage agent issued pursuant to section 29 of this Proposed

Bill Draft Request. The license issued pursuant to section 29 of this Proposed Bill Draft Request is effective upon the date that the mortgage agent files the required forms and fees with the Division, however the license is conditional until such time as the Division has completed the investigation of the applicant and has found that the applicant meets the standards prescribed in section 29 of this Proposed Bill Draft Request.

2. A mortgage agent working for a banker pursuant to subsection 2 of this section is subject to disciplinary action prescribed in NRS 645E.670.

3. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 29. 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than \$185.

(e) Comply with the testing and/or education requirements pursuant to section – of this proposed bill draft request

2. An application for a license as a mortgage agent must:

(a) Be verified;

(b) State the name and residential address of the applicant;

(c) Include a provision by which the applicant gives his written

consent to an investigation of his credit history, criminal history and background;

(d) Include two complete sets of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(e) Include a verified statement from the mortgage banker with whom the applicant will be associated that expresses the intent of that mortgage banker to associate the applicant with the mortgage banker and to be responsible for the activities of the applicant as a mortgage agent; and

(f) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(2) Has not had a financial services license suspended or revoked

within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645 E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications to the Commissioner.

4. Except as provided in section 48 of this proposed bill draft request, all money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. The Commissioner shall deny a license as a mortgage agent to any person who has been convicted of, or entered a plea of nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance or any crime involving fraud, misrepresentation or moral turpitude in a court in this State, the United States or any foreign jurisdiction. The person remains ineligible for the issuance of the license until 3 years after:

- (a) The person pays any fine or restitution ordered by the court; or*
- (b) The expiration of the period of the parole, probation or sentence of the person, whichever is later.*

Sec. 30. 1. A license as a mortgage agent issued pursuant to Section 29 of this Proposed Bill Draft Request expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

- (a) An application for renewal;*
- (b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 24 months immediately preceding the date on which the license expires; and*
- (c) A renewal fee set by the Commissioner of not more than \$170.*

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

- (a) An application for renewal;*
 - (b) The fee required to renew the license pursuant to this section;*
- and*
- (c) A reinstatement fee of not more than \$75.*

3. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of \$10.

4. To change the licensee with whom the mortgage agent is associated, a person must pay a fee of not more than \$10.

5. Except as provided in section 48 of this proposed bill draft request, all money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for next consecutive 12-month period.

Sec. 31. *1. A person licensed as a mortgage agent pursuant to the provisions of Section 29 of this Proposed Bill Draft Request may not be associated with or employed by more than one mortgage banker or broker at the same time.*

2. A mortgage banker shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage banker as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to Section 29 of this Proposed Bill Draft Request.

3. If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later 30

calendar days after the date of termination:

(a) Deliver to the mortgage agent or send by certified mail to the last known residential address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

(b) Deliver or send by certified mail to the Division:

(1) The license or license number of the mortgage agent;

(2) A written statement of the circumstances surrounding the termination; and

(3) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to paragraph (a).

4. If the Division receives notification that a mortgage agent has associated with a different licensee than the licensee of record with the Division, the statements pursuant to subsection 3 of this section are not required. The mortgage agent's association with the prior licensee will be automatically terminated upon receipt of the change of licensee notification.

Sec. 32. *1. A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents. Such reasonable supervision must include, as appropriate:*

(a) The establishment of written or oral policies and procedures for his mortgage agents; and

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction;

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage banker or his mortgage agents; and

(5) The reporting to the Division of any fraudulent activity engaged in by his mortgage agents.

2. The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage banker when the mortgage banker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage banker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 33. 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645E.280, to renew a license as a

mortgage banker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 24 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee or originates mortgage loans on behalf of the licensee attended at least 10 hours of certified courses of continuing education the 24 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12 month period, but not needed to satisfy a requirement set forth in this section for the 12 month period in which the course was taken, may be used to satisfy a requirement set forth in this section for the next consecutive 12 month period.

3. As used in this section, "certified course of continuing education" means a course of continuing education certified by the Commissioner pursuant to section 42 to 47 of this proposed bill draft request which relates to the mortgage industry or mortgage transactions, and which is taught by a provider and an instructor approved by the Commissioner. The term also includes any courses pertaining to the mortgage industry which

are taught by Division employees.

Sec. 34. NRS 645E.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645B.130, inclusive, *and sections 25 to 40, inclusive, of this Proposed Bill Draft Request* have the meanings ascribed to them in those sections.

Sec. 35 NRS 645E.100 is hereby amended to read as follows:

1. "Mortgage banker" means any of the following:

(a) A person who, directly or indirectly:

(1) Holds himself out as being able to:

(I) Buy or sell notes secured by liens on real property; or

(II) Make loans secured by liens on real property using his own

money; and

(2) Does not engage in any other act or transaction described in the definition of "mortgage broker," as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

(b) A person who, directly or indirectly:

(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor; and

(2) Does not engage in any other act or transaction described in the definition of "mortgage broker," as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

For the purposes of this section, a person does not make a loan secured by a lien on real property using his own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.

3. The term does not include an institutional investor including, but not limited to, banks, insurance companies or governmental agencies who purchase closed loans, loan portfolios or servicing rights on loans originated by a mortgage banker licensed pursuant to NRS chapter 645E or a person exempt from the provisions of NRS chapter 645E.

Sec. 36. NRS 645E.150 is hereby amended to read as follows:

Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, ~~[consumer finance companies]~~, industrial loan companies, credit unions ~~[,]~~ ***or*** thrift companies ***,*** ~~[or insurance companies,]~~ unless the business conducted in this State is not subject to ***the direct*** supervision by ~~the~~ a regulatory authority ~~[of the other jurisdiction]~~ ***of this state, another state or the federal government or is not expressly authorized by the laws, license or other credential issued by the other jurisdiction, in which case licensing pursuant to this chapter is required. Persons qualifying for exemptions pursuant to this section must provide support that the business conducted pursuant to this chapter is subject to regulatory supervision by the other***

authority.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 37. NRS 645E.200 is hereby amended to read as follows:

1. A person who wishes to be licensed as a mortgage banker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645E.280. An application for a license as a mortgage banker must:

(a) Be verified.

(b) State the name, ~~[residence]~~ **residential** address and business address of the applicant and the location of each principal office and branch office at which the mortgage banker will conduct business in this state, including, without limitation, any office or other place of business located outside this state from which the mortgage banker will conduct business in this state.

(c) State the name under which the applicant will conduct business as a mortgage banker.

(d) If the applicant is not a natural person, list the name, ~~[residence]~~ **residential** address and business address of each person who will have an interest in the mortgage banker as a principal, partner, officer, director , ~~[or]~~ trustee **or any other person who may exercise significant control over the operation of the mortgage banker**, specifying the capacity and title of each such person.

(e) Indicate the general plan and character of the business.

(f) State the length of time the applicant has been engaged in the business of a mortgage banker.

(g) Include a financial statement of the applicant.

(h) **Include any information regarding any civil or criminal**

proceedings brought against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.

(i) Include any information relating to any written complaints filed with any state or federal regulator against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant, with any licensing board in another state and any action taken by the licensing board against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.

(j) List the name, residence address of each person who will be associated with or employed by the mortgage banker as a mortgage agent.

(k) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage banker will conduct business in this state at one or more branch offices, the mortgage banker must apply for a license for each such branch office. *The location of each principal office and branch office at which the mortgage banker will conduct business within this State must not be on property that is zoned primarily for residential use.*

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage banker if:

(a) The application complies with the requirements of this chapter; ~~and~~

(b) The applicant, if a natural person or their designated qualified

employee complies with the testing and/or education requirements pursuant to section – of this proposed bill draft request; and

~~(b)~~ (c) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association, *and the proposed qualified employee of the applicant:*

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage banker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Has not been convicted of, or entered a plea of nolo contendere to, ~~[a felony relating to the practice of mortgage bankers]~~ *forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance* or any crime involving fraud, misrepresentation or moral turpitude~~[.]~~ *in a court in this State, the United States or any foreign jurisdiction.*

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter or chapter 645B of NRS suspended or revoked within the 10 years immediately preceding the date of his application.

(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked

within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter or chapter 645B of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. If an applicant is a partnership, corporation or unincorporated association, the Commissioner may refuse to issue a license to the applicant if any member of the partnership or any officer or director of the corporation or unincorporated association has committed any act or omission that would be cause for refusing to issue a license to a natural person.

5. A person may apply for a license for an office or other place of business located outside this state from which the applicant will conduct business in this state if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this state and if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this state the books, accounts, papers, records and files of the office or place of business located outside this state to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this state. The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

6. The Commissioner shall deny a license as a mortgage banker and

shall not approve as a qualified employee any person who has been convicted of, or entered a plea of nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance or any crime involving fraud, misrepresentation or moral turpitude in a court in this State, the United States or any foreign jurisdiction. The person remains ineligible for the issuance of the license and may not be approved as a qualified employee until 3 years after:

- (a) The person pays any fine or restitution ordered by the court; or*
- (b) The expiration of the period of the parole, probation or sentence of the person, whichever is later.*

Sec. 36. NRS 645E.280 is hereby amended to read as follows:

1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or before ~~December 31~~ **November 30** of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the license pursuant to this section.

(c) The certificate of completion of the courses of continuing education information required pursuant to Section 33 of this Proposed Bill Draft Request.

2. If the licensee fails to submit any item required pursuant to subsection 1, *or has failed to provide statements required pursuant to NRS 645E.360 or pay any fees or assessments due the division by the licensee* to the Commissioner on or before ~~December 31~~ *November 30* of any year, the license is cancelled ~~as of December 31 of that year.~~ The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of *not more than* \$200.

(d) All information required to complete the reinstatement, including statements required pursuant to NRS 645E.360 and payment of any fees or assessments due the Division by the licensee.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before ~~December 31~~ *November 30* of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before ~~December 31~~ *November 30* of any year, the

certificate of exemption is cancelled ~~as of~~ **as of December 31 of that year.** Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) A reinstatement fee of **not more than** \$100.

5. A person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, a fee of **not more than** \$1,500 for the principal office and **not more than** \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, **a fee of not more than** \$1,000 for the principal office and **not more than** \$60 for each branch office.

(c) To renew a license, **not more than** \$500 for the principal office and **not more than** \$100 for each branch office.

6. A person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, **not more than** \$200.

(b) To renew a certificate of exemption, **not more than** \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a

person must make a satisfactory showing of its loss and pay a fee of \$10.

8. Except as otherwise provided in this chapter, *or in section 48 of this proposed bill draft request*, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 38. NRS 645E.360 is hereby amended to read as follows:

1. Except as otherwise provided in this section, not later than ~~[60]~~ 120 days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage banker by an independent public accountant who holds a permit to engage in the practice of public accounting in this state that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage banker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 39. NRS 645E.620 is hereby amended to read as follows:

1. Whether or not a complaint has been filed, the Commissioner may investigate a mortgage banker or other person if, for any reason, it appears that:

(a) The mortgage banker is conducting business in an unsafe and injurious manner or in violation of any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(b) The person is offering or providing any of the services of a mortgage banker or otherwise engaging in, carrying on or holding himself out as engaging in or carrying on the business of a mortgage banker without being licensed or exempt from licensing pursuant to the provisions of this chapter; or

(c) The person is violating any other provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. If, upon investigation, the Commissioner has reasonable cause to believe that the mortgage banker or other person has engaged in any conduct or committed any violation described in subsection 1, the Commissioner may:

(a) Advise the ~~[district attorney of the county in which the conduct or violation occurred]~~ **Attorney General** and the ~~[district attorney]~~ **Attorney General** shall cause the appropriate legal action to be taken against the mortgage banker or other person to enjoin the conduct or the operation of the business or prosecute the violation; and

(b) Bring a civil action to:

(1) Enjoin the mortgage banker or other person from engaging in the conduct, operating the business or committing the violation; and

(2) Enjoin any other person who has encouraged, facilitated, aided or participated in the conduct, the operation of the business or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.

3. If the ~~[Commissioner]~~ **Attorney General** brings a civil action pursuant to subsection 2, the district court of any county of this state is hereby vested with the jurisdiction in equity to enjoin the conduct, the operation of the business or the commission of the violation and may grant any injunctions that are necessary to prevent and restrain the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:

(a) The court may issue any temporary restraining orders as may appear to be just and proper;

(b) The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ex parte issuance of a temporary restraining order; and

(c) The ~~[Commissioner]~~ **Attorney General** may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any person to:

(1) Produce any documents, books and records as may appear

necessary for the hearing of the petition; and

(2) Testify and give evidence concerning the conduct complained of in the petition.

Sec. 40. NRS 645E.670 is hereby amended to read as follows:

1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000, if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than \$10,000, *may require that the licensee, or person acting as a mortgage banker, to disgorge any profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of*

this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner; furthermore, may suspend, revoke or place conditions

upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a

trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

(p) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

(q) Has compensate, directly or indirectly, coerce, or intimidate an

appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of the real estate being offered as security according to an application for a mortgage loan.

(r) Has failed to exercise reasonable supervision over the activities of a person conducting business on behalf of the banker;

(s) Has instructed a person associated with the banker to commit an act that would cause revocation of the license of the mortgage banker, whether or not the person commits the act.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. For each violation committed by a mortgage agent or a qualified employee, the Commissioner may impose upon the mortgage agent or qualified employee an administrative fine of not more than \$10,000, may require that the licensee, or person acting as a mortgage agent, to disgorge any profit made or make restitution to any party shown by a preponderance of the evidence to be injured as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner; furthermore, may suspend, revoke or place conditions upon his license or ability to act as a qualified employee, or may do both, if the mortgage agent or qualified employee, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent or qualified employee knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent or qualified employee possesses and which, if submitted by him, would have rendered the mortgage agent or qualified employee ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage banker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

(k) Has compensated, directly or indirectly, coerced, or intimidated an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of the real estate being offered as security in relation to an application for a mortgage loan.

Sec. 41. NRS Chapter 645F is hereby amended by adding thereto the provisions set forth in Sections 42 to 53, inclusive, of this Proposed Bill Draft Request.

Sec. 42. The Mortgage Lending Education & Research fund is hereby created as a special revenue fund. The Mortgage Lending Education & Research fund shall be used by the Commissioner for the following:

- a. Establishment and maintenance of an education section within the Division of Mortgage Lending to administer an education program for licensees as defined in NRS chapter 645B & NRS chapter 645E.*
- b. Mortgage education and research, including providing classes of continuing education.*
- c. Provide consumer awareness public service announcements and publications.*
- d. The Commissioner may adopt any regulation necessary to carry out the provisions of this section.*

Sec. 43. *1. The Division shall ascertain by written examination that the applicant for a mortgage broker, mortgage banker, mortgage agent license or qualified employee designation has an appropriate knowledge and understanding of those subjects which commonly and customarily apply to the mortgage industry. If the licensee is not a natural person, each natural person owner who supervises the daily business of the licensee or originates mortgage loans on behalf of the licensee must comply with these requirements.*

2. The Division may hire a professional testing organization to create, administer or score the written examination or perform all of those functions.

3. The Commissioner may adopt regulations necessary to carry out the provisions of this section, including without limitation, regulations specifying the content of the test, scoring criteria, acceptance of a comparable tests administered by national organizations or waiver of testing requirements for individuals meeting experience requirements.

Sec. 44. *The Division shall not issue a license as a mortgage agent or approve a person as a qualified employee unless the person has completed at least 30 hours of education in the following courses:*

- 1. At least 10 hours of education in the review of the laws of this State;*
- 2. At least 5 hours of education in ethics;*
- 3. At least 4 hours of education in the Real Estate Settlement*

Procedures Act;

4. At least 4 hours of education in the Truth in Lending Act; and

5. At least 7 hours of education in loan origination, processing, appraisal and underwriting; or

6. Successfully completed the examination required in Section 10 of this Bill Draft Request.

Sec. 45. *1. A course of continuing education is not a certified course of continuing education unless:*

(a) The course consists of at least 2 hours of education through distance learning or instruction in a classroom;

(b) The provider of the course issues a certified copy of the record of attendance, record of completion of the course or, if the provider is a college or university, a transcript to the person who attended the course that sets forth:

(1) The name of the provider of the course;

(2) The name of the person who attended the course;

(3) The number of hours of instruction;

(4) The date of completion of the course, if the course was provided through distance learning, or the dates of attendance, if the course was provided through instruction in a classroom;

(5) The title of the course;

(6) A statement that the course meets the requirements to be a certified course of continuing education as provided in this section;

(7) The signature of a person who is authorized to sign on behalf of the provider of the course; and

(8) If an examination is conducted, an indication of whether the person who attended the course passed or failed the examination; and

(c) If the provider of the course is a professional organization, the course is not restricted to members of the professional organization.

2. The Division shall accept a record or transcript issued in accordance with paragraph (b) of subsection 1 for the purpose of renewal or reinstatement of a license.

3. A provider of a course shall keep a copy of a record or transcript issued in accordance with paragraph (b) of subsection 1 for at least 3 years after the date of the completion of a course.

4. The Commissioner may adopt any regulations necessary to carry out the provisions of this section.

Sec.46. A provider or instructor that wishes to offer courses to meet the educational requirements for licensure under chapter 645B of NRS must:

- 1. Apply to the Commissioner for approval on a form prescribed by the Division; and*
- 2. Pay a fee of not more than \$500 for designation as an approved provider; and*
- 3. Pay a fee of not more than \$100 for each class the provider offers.*
- 4. An applicant for approval as an instructor must pay a fee of not more than \$100. The fee and approval allows the instructor to teach*

multiple classes.

5. A licensee may receive credit for a certified course of continuing education:

(a) Not more than once if he teaches the certified course of continuing education; or

(b) For any course for which the licensee, as determined by the Commissioner, completed at least 90 percent of the work required for the course within the immediately preceding 24 month period if he has not received credit for completing the same course within that period.

6. At least once during each 24-month period, the licensee must complete a certified course of continuing education that includes:

(a) Five hours of instruction in law and ethics; and

(b) Five hours of instruction in federal and state law.

7. The Commissioner shall adopt regulations allowing for the participation of industry representatives in the approval process to qualify eligible courses of continuing education pursuant to this section. The Commissioner may adopt any other regulations necessary to enforce this section including without limitation, provider or instructor's obligations to provide information, maintain records, report attendance, standards for approval for providers, instructors and courses, revocation or withdrawal of approvals, required classes, monitoring classes, disciplinary action and recourse.

Sec. 47.

1. To qualify for annual renewal of approval by the Commissioner, a provider or instructor must submit to the Commissioner before July 1:

(a) An application for renewal on a form provided by the Division, declaring that the provider or instructor has met all applicable requirements of this chapter and describes on that form any changes within the company or in any course offered by the provider. An application for renewal must be filed at least 2 weeks before the previous approval expires. If the provider or instructor does not timely file the application for renewal, the provider or instructor must apply for an original approval; and

(b) Payment of a fee of not more than \$100 to be renewed as an approved provider, a fee of not more than \$50 for each course for which renewal is being sought and a fee of not more than \$50 for approval as an instructor .

2. The Division shall renew the approval of a course if the information concerning the course has been updated and there is no material change in the content of the course since the course was last approved or re-approved.

3. The Commissioner may deny renewal of approval to any provider that does not meet the standards required by this chapter.

4. The Commissioner may adopt any regulations necessary to enforce this section.

Sec. 48

1. The Division may assign not more than \$20 of each initial licensing fee collected pursuant to NRS 645B.020, NRS 645B.410, NRS 645E.200 and Section 29 of this proposed bill draft request, and not more than \$20 of each renewal fee collected pursuant to NRS 645B.050, NRS 645B.430, NRS 645E.280 and Section 30 of this proposed bill draft request towards the establishment and maintenance of the Mortgage Lending Education & Research fund to administer the provisions of this section. Any monies collected from education providers or instructor and from receipt of licensing and renewal fees in excess of the amounts needed to administer this section shall be deposited into the Mortgage Lending Recovery Fund pursuant to section 50 of this proposed bill draft request.

2. If the fees collected from education providers or instructor and from receipt of licensing and renewal fees are not sufficient to cover the costs associated with the provisions of Section 42 of this Proposed Bill Draft Request, those costs may be paid from unallocated reserves.

Sec. 49. *As used in Sections 50 to 53, inclusive, of this Proposed Bill Draft Request “Fund” means the Mortgage Lending Recovery Fund.*

Sec. 50.

1. The Mortgage Lending Recovery Fund is hereby created as a special revenue fund.

2. The balance in the Fund beginning each fiscal year should not more

than \$500,000, to be used for satisfying claims as provided in Sections 51 to 53, inclusive, of this Proposed Bill Draft Request, against persons licensed under NRS 645B and NRS 645E, or who should have been license pursuant to those chapters at the time of the transaction giving rise to the claim.

3. The Division may transfer funds from unallocated reserves to establish the Fund and to cover shortages in the Fund. Nothing in this section obligates nor mandates the Division to make these transfers from unallocated reserves to cover shortages in the Fund. Any balances in the fund in excess of \$500,000 at the beginning of each fiscal year shall be transferred into unallocated reserves. Amounts approved for payment of a valid claim, but not yet disbursed, may be maintained in the fund in excess of the cap.

Sec. 51. *1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any person licensed under NRS 645B and NRS 645E, or who should have been license pursuant to those chapters at the time of the transaction giving rise to the claim, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to this chapter, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the*

judgment, but not more than \$20,000 per judgment. The liability of the Fund shall never exceed a total of more than \$75,000 for any person licensed pursuant to NRS 645B & NRS 645E or who should have been licensed pursuant to those chapters at the time of the transaction giving rise to the claim, whether he is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.

2. A person who is licensed pursuant to this chapter may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.

3. The Commissioner may adopt any regulations necessary to enforce and qualify the provisions of this section.

Sec. 52.

1. If the Commissioner pays from the Fund any amount in settlement of a claim or towards satisfaction of a judgment against a licensee, his license issued pursuant to chapters 645B & 645E of NRS must be automatically suspended upon the effective date of the petition and order by the court authorizing payment from the Fund. The license of the mortgage broker, mortgage banker or mortgage agent may not be reinstated and no other license may be granted to him pursuant to NRS 645B or NRS 645E until he has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately

preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

2. The Commissioner may adopt any regulations necessary to enforce and qualify the provisions of this section.

Sec. 53. *Nothing contained in Sections 50 to 52, inclusive, of this Proposed Bill Draft Request, limits the authority of the Commissioner to take disciplinary action against a licensee or against persons required to have a license pursuant to NRS 645B or NRS 645E and the person did not have such a license for a violation for any of the provisions of NRS 645B or NRS 645E, or of the rules and regulations of the Commission. Nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of NRS 645B or NRS 645E or the rules and regulations promulgated there under.*

Sec. 54. NRS 645F.180 is hereby amended to read as follows:

1. The Commissioner may appoint deputy commissioners of mortgage lending, examiners, assistants, clerks, stenographers and other employees necessary to assist him in the performance of his duties pursuant to this chapter,

chapters 645A, 645B and 645E of NRS or any other law. These employees shall perform such duties as are assigned to them by the Commissioner.

2. The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers and mortgage bankers. The Commissioner ~~{shall}~~ **may** levy an assessment upon each licensed escrow agency, mortgage broker and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.

3. Assessments collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury for deposit to the Fund for Mortgage Lending created by NRS 645F.270 and accounted for separately. The Commissioner shall use the money for the purposes specified in subsection 2.

4. The Commissioner shall adopt any regulations necessary for purposes of establishing a reasonable basis for the assessment or payment of the costs associated with the services provided by the certified public account as detailed in subsection 1.

Sec. 55. NRS 645F.290 is hereby amended to read as follows:

1. The Commissioner ~~{shall}~~ **may** collect an assessment pursuant to this section from each:

- (a) Escrow agency that is supervised pursuant to chapter 645A of NRS;
- (b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; and

(c) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner ~~[shall]~~ *may* collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. The Commissioner shall adopt any regulations necessary for purposes of establishing a reasonable basis for the assessment or payment of the costs associated with the services provided to the Division by the Attorney General's Office as detailed in subsection 2.

~~[5]~~ *6.* Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 56. NRS 80.015 is hereby amended to read as follows:

1. For the purposes of this chapter, the following activities do not constitute

doing business in this State:

- (a) Maintaining, defending or settling any proceeding;
- (b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;
- (c) Maintaining accounts in banks or credit unions;
- (d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;
- (e) Making sales through independent contractors;
- (f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;
- (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
- (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (i) Owning, without more, real or personal property;
- (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;
- (k) The production of motion pictures as defined in NRS 231.020;
- (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and
- (m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits *business*, or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

(c) Arranges a mortgage loan secured by real property other than commercial property as defined in NRS 645E.040.

4. The fact that a person is not doing business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, “deposits”

means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

6. As used in (3) (b) of this section, "solicits business" includes activity defined by NRS 645B.0127 or NRS 645E.100.

Sec. 57. *NRS 692A is hereby amended by adding the following section:*

1. If an escrow for the sale or refinance of real property is established, the holder of the escrow shall, on the date of establishment of the escrow, record in writing the number and the date of expiration of the:

(a) License issued pursuant to chapter 645 of NRS; or

(b) Certificate of cooperation issued pursuant to NRS 645.605, of any real estate broker, broker-salesman or salesman who will be paid compensation from money held in the escrow for performing the services of a real estate broker, broker-salesman or salesman in the transaction that is the subject of the escrow. The holder of the escrow is not required to verify the validity of the number of the license or certificate.

2. If an escrow for the sale or refinance of real property is established and the real property is or will be secured by a mortgage or deed of trust, the holder of the escrow shall, on the date of establishment of the escrow, record in writing the number and the date of expiration of the license issued pursuant to chapter 645B or 645E of NRS of any mortgage broker or mortgage banker associated with the mortgage or deed of trust. The holder of the escrow shall verify the validity of the number of the license issued by

the Division of Mortgage Lending of the Department of Business and Industry. If the mortgage broker or mortgage banker opening the escrow does not hold a valid license issued pursuant to chapter 645B or NRS 645E of NRS, or the person is not exempt from the provisions of chapter 645B or NRS 645E of NRS, the holder of the escrow must submit information on the person to the Division of Mortgage Lending on a form prescribed by the Division.

Sec. 58. 1. Except as provided in subsections 2 and 3 and sections 59-60, the transitory provisions of this act relating to the requirements for the issuance or renewal of a license as a mortgage broker, mortgage agent or mortgage banker apply only to a license that is issued or renewed on or after October 1, 2007.

2. The sections of this proposed Bill Draft Request pertaining to licensure requirements for agents associated with a mortgage banker becomes effective on October 1, 2008.

3. Sections creating new educational requirements become effective on July 1, 2008. All courses and course providers who are approved as of July 1, 2007 are not required to obtain approval pursuant to the provisions of this proposed Bill Draft Request until July 1, 2008, but the Division may issue approvals for other courses and providers at anytime after July 1, 2007.

Sec. 59. The transitory provisions of Section 13 of this proposed Bill Draft Request amending NRS 645B.020(2) and Section 37 amending NRS

645E.200(2) do not apply to any mortgage broker or mortgage banker who, on July 1, 2007 and continuously thereafter, possesses and maintains a license for a principal or branch office on property zoned primarily for residential use.

Sec.60. Any mortgage agent who was initially licensed in this state within 3 years prior to October 1, 2007 and is currently licensed as a mortgage agent associated with a mortgage broker, or intends to reactivate and associate with a mortgage broker, must comply with the provisions of Section 43 of this Act on or before July 1, 2008. Any qualified employee designated and approved as such for a mortgage broker or any natural person conducting mortgage broker business on behalf of a license initially issued in this state within 2 years prior to October 1, 2007 must comply with the provisions of Section 43 of this Act on or before July 1, 2008.

Sec. 61. Sections 4, 5, 7 & 57 of this bill draft limiting dual ownership of an escrow and mortgage broker license, increasing escrow agencies' bond limits and requiring escrow agencies and title companies to notify affected divisions of unlicensed activity should have an effective date of at least 6 months past the default effective date.